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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael F. Roberts et al.

Art Unit : 1744

Serial No. : 10/036,022

Examiner : Mark Spisich

Filed : December 26, 2001

Title : GUM-MASSAGING ORAL BRUSH

MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

COMMENTS IN RESPONSE TO FINAL OFFICE ACTION MAILED APRIL 26, 2005

In response to the final Office Action mailed April 26, 2005, Applicants submit the following remarks.

Applicants believe that all claims are in condition for allowance. Applicants respectfully request a Notice of Allowance.

Claims 52-54 and 57 have been rejected under 35 U.S.C. §103(a) as being obvious over Japanese utility model JP 1-72128 ('128). Applicants respectfully request withdrawal of this rejection for the following reasons.

Independent claim 52 is directed to an oral brush, and requires at least one molded elastomeric element.

The '128 utility model discloses an oral cleaning implement employing filaments composed of an engineering elastomer that are melt spun (i.e., extruded and drawn). The '128 utility model does not disclose or suggest employing molded elastomeric elements, as claim 52 requires.

The Examiner states that differences with respect to the manner of forming an element do not distinguish over a prior art device otherwise having the same structural elements. Applicants respectfully submit that claim 52 should not be construed as a product-by-process claim. The

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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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